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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 ABU KHALID ABDUL-LATIF,

11 Petitioner,

12 v.

13 UNITED STATES OF AMERICA,

14 Respondent.

CASE NO. C13-1715JLR

ORDER DENYING MOTION  
FOR RELIEF FROM JUDGMENT

15 Before the court is *pro se* Petitioner Abu Khalid Abdul-Latif's second motion for  
16 relief from judgment pursuant to Federal Rule of Civil Procedure 60(b). (Mot. (Dkt.  
17 # 38).) Mr. Abdul-Latif seeks relief from the court's January 30, 2014, order denying his  
18 motion to set aside or correct his sentence pursuant to 28 U.S.C. § 2255. (*Id.* at 1; *see*  
19 *also* 1/30/14 Order (Dkt. # 11).) The court DENIES the motion for the reasons set forth  
20 below.

21 In December 2017, Mr. Abdul-Latif filed a motion for relief from judgment under  
22 Rule 60(b). (*See* 12/12/17 Mot. (Dkt. # 33).) The court referred that motion to the Ninth

1 Circuit upon finding that the motion attacked the integrity of the grand jury proceedings,  
2 not Mr. Abdul-Latif's § 2255 proceedings, and thus was in substance a second or  
3 successive § 2255 motion that required certification by the Ninth Circuit. (1/25/18 Order  
4 (Dkt. # 36) at 3-5.) As the court explained in its order referring Mr. Abdul-Latif's  
5 motion, a district court must treat a Rule 60(b) motion as a second or successive habeas  
6 petition unless it attacks some defect in the integrity of the federal habeas proceeding.  
7 (*Id.* at 3 (quoting *Gonzalez v. Crosby*, 545 U.S. 524, 524 (2005).)

8 In the present motion, Mr. Abdul-Latif expressly states that he seeks relief under  
9 Rule 60(b) because "he was not afforded a fair hearing and reliable determination [of] his  
10 claims . . . on his § 2255 motion." (Mot. at 2.) Specifically, Mr. Abdul-Latif argues that  
11 the court deprived him of a meaningful opportunity to be heard when it denied his request  
12 to appoint counsel and declined to hold an evidentiary hearing on his § 2255 motion. (*Id.*  
13 at 3.) Mr. Abdul-Latif suggests that he is entitled to relief under Rule 60(b)(4), which  
14 permits a court to grant relief from judgment where "the judgment is void," and Rule  
15 60(b)(6), which contemplates relief from judgment for "any other reason that justifies  
16 relief." (*Id.* at 2-3; 21-22; 23); *see also* Fed. R. Civ. P. 60(b)(4), (6).

17 Mr. Abdul-Latif's motion is untimely. A motion for relief under Rule 60(b)(4) or  
18 Rule 60(b)(6) must be made within a reasonable time. Fed. R. Civ. P. 60(c)(1). "What  
19 constitutes reasonable time depends upon the facts of each case, taking into consideration  
20 the interest in finality, the reason for delay, the practical ability of the litigant to learn  
21 earlier of the grounds relied upon, and prejudice to the other parties." *Lemoge v. United*  
22 *States*, 587 F.3d 1188, 1196-97 (9th Cir. 2009) (quoting *Ashford v. Steuart*, 657 F.2d

1 1053, 1055 (9th Cir. 1981)) (internal quotation marks omitted). In brief, “relief [under  
2 Rule 60(b)] may only be granted where the petitioner has diligently pursued review of his  
3 claims.” *Foley v. Biter*, 793 F.3d 998, 1004 (9th Cir. 2015). Mr. Abdul-Latif filed this  
4 motion nearly four years after the court denied his first § 2255 motion.<sup>1</sup> The grounds for  
5 his motion were known and available to him in April 2014, when the court entered  
6 judgment on his § 2255 motion. (*See* Judgment (Dkt. # 18).) Even allowing Mr.  
7 Abdul-Latif the solicitude due *pro se* litigants, the court finds that he failed to move for  
8 relief under Rule 60(b) within a reasonable period. *See, e.g., Kingdom v. Lamerque*, 392  
9 F. App’x 520, 521 (9th Cir. 2010) (finding untimely a Rule 60(b)(6) motion filed more  
10 than one year after the district court’s denial of the petitioner’s habeas petition);  
11 *Rodriguez v. Mitchell*, 252 F.3d 191, 201 (2d Cir. 2001) (Rule 60(b)(6) motion filed more  
12 than three years after the court denied the petitioner’s habeas petition was an  
13 unreasonable delay).

14 Moreover, Mr. Abdul-Latif’s motion fails on the merits. Mr. Abdul-Latif provides  
15 no reason for the court to conclude that it erred in denying him counsel and declining to  
16 hold an evidentiary hearing on his § 2255 motion. (*See* 1/30/14 Order; *see also* 4/7/14  
17 Order (denying Mr. Abdul-Latif’s motion for reconsideration of the court’s order on his  
18 § 2255 motion).)

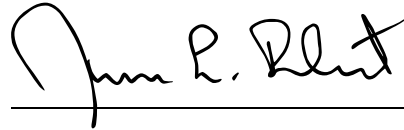
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21 <sup>1</sup> Since the court denied Mr. Abdul-Latif’s first § 2255 motion, he has sought permission  
22 to file a second and successive § 2255 motion on more than one occasion. *See, e.g., Abdul-Latif*  
*v. United States*, No. C14-1997JLR (W.D. Wash.), Dkt. # 1. The present motion focuses on this  
court’s denial of Mr. Abdul-Latif’s first § 2255 motion. (*See* Mot. at 1.)

1 For the foregoing reasons, the court DENIES Mr. Abdul-Latif's motion for relief  
2 from judgment (Dkt. # 38).

3 Dated this 9th day of January, 2019.

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6 The Honorable James L. Robart  
7 U.S. District Court Judge  
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